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STATE TRADE GROUPS PLEDGE TO CONTINUE TO PREVENT YOUTH ACCESS TO TOBACCO PRODUCTS

Remain Opposed to FDA's Burdensome Regulations

WASHINGTON, DC, February 27, 1997 - Seventy-one state trade associations today joined together with the National Association of Convenience Stores and the American Wholesale Marketers Association to reaffirm the retail and wholesale industries' commitment to reducing youth access to tobacco products while voicing opposition to the Food and Drug Administration's (FDA) plan to restrict their ability to market and sell tobacco products to adults.

"Retailers have been and will continue to be at the forefront of efforts to prevent illegal sales of tobacco products to minors," said Lindsay Hutter, spokesperson for the National Association of Convenience Stores. "Kids should not be able to purchase tobacco products. We pledge to continue our aggressive efforts to make a difference in reducing the rate of illegal sales to minors."

For over a decade, retailers have supported state laws that prohibit the sale of tobacco products to minors. The industry has also taken a leadership role in developing and implementing education programs to train employees to ask for photo identification and turn away minors who attempt to purchase tobacco.

Most recently, in December 1995, the industry helped launch the "We Card" program to provide retailers with training and education to help improve compliance with minimum age sales laws. Through the Coalition for Responsible Tobacco Retailing, more than 360,000 We Card kits including signage and training materials have been distributed nationwide.

"Employee education and enforcement of existing laws are the most effective ways to keep tobacco out of the hands of kids," said Judy Cook, President of the Minnesota Retail Merchants Association. "In many states, these efforts are demonstrating an effect in reducing the rate of illegal sales to minors."

Retailers oppose the FDA regulations because they will unnecessarily duplicate state efforts, impose a financial burden on retailers and infringe on their First Amendment rights.

The retail groups believe the FDA rule is duplicative because many state associations have been working with elected officials to try to strengthen and improve enforcement of state minimum age laws for tobacco products. In addition, retailers support the law enacted by Congress in 1992 that requires each state to enforce minimum age laws for tobacco products and demonstrate a reduction in the rate of illegal sales.

opposed

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"Laws prohibiting the sale of tobacco products to minors are already in place in all 50 states," said Patrick Hicks, President of the Kentucky Grocers Association and Kentucky Association of Convenience Stores. "We need to focus on enforcement of and compliance with existing laws before we create a new layer of federal bureaucracy."

Retailers also questioned the logic behind the FDA's requirement that goes into effect February 28, mandating that retailers verify, by photo identification, the age of all tobacco purchasers who are under 27 years old, but also over the legal age. To ensure that they are in compliance with federal law, store personnel, who are on the front lines of the effort to eliminate tobacco sales to minors, will be carding a whole new class of people -- those in their late 20s and 30s, and certainly well above the legal age to purchase tobacco.

In addition, the groups said other rules, scheduled to go into effect on August 28, would be costly, forcing many retailers to reconstruct or reconfigure their establishment to store all tobacco products behind the counter and severely restricting in-store tobacco advertising. The National Association of Convenience Stores estimates that remodeling to comply with the proposed regulation could cost between $4,000 and $10,000 per store. Industrywide this could total at least $700,000,000.

"Retailers operate on small profit margins," said Tom Jackson, President and C.E.O. of the Ohio Grocers Association. "It is not unreasonable to assume these onerous regulations and this financial burden could force some law-abiding retailers to close their businesses."

Retailers also expressed constitutional concerns over the FDA's advertising restrictions, which would interfere with their right to free speech, guaranteed under the First Amendment.

"If FDA is allowed to have its way, our members will be severely limited in their ability to market and sell a legal product to adults," said Cathy Flaherty, Executive Director of the New England Convenience Store Association. "We think what they've proposed simply goes too far. It will interfere with adults' rights to choose and have access to tobacco and will do very little, if anything, to reach the goal of preventing youth smoking."

While the courts weigh the issue of whether FDA has jurisdiction over tobacco products, each of the state associations vowed to continue their training, education and enforcement efforts designed to keep tobacco and minors apart.

The associations listed below represent retailers, grocers, wholesalers, petroleum marketers and convenience store operators from forty two states.

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